

## REMARKS

### Overview

This amendment is being filed with a Request For Continued Examination (RCE). Claims 1-17 are pending in the current application. Claims 1, 5, 12 and 13 have been amended and claims 18-26 have been cancelled. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

### Claim Rejections

Claims 1, 2, 4, 11, 12, 15-18 and 23-26 have been rejected under 35 U.S.C. § 102 as being anticipated by Lin. Claims 18 and 23-25 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Ernster et al. Claims 3, 10, 13, 14, 20, 21 and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin in view of Piland. Claims 20-22 have also been rejected under § 103 as being obvious over Ernster in view of Piland.

Applicant has amended independent claims 1 and 12 so as to distinguish over the Lin patent. More particularly, claim 1 has been amended to provide for "a rotatable illuminator connected to the rotary dial for movement with the dial." This limitation is supported in the Specification at page 4, lines 7-14, and as seen in the drawings at Figures 3-5. This limitation for a rotatable illuminator is not met by Lin. There simply is no teaching or suggestion in Lin for an illuminator which rotates with the dial, as required by claim 1. Accordingly, claim 1 distinguishes over Lin so as to be in proper form for allowance.

Furthermore, as previously discussed in Applicant's Amendment dated November 15, 2005, claim 1 is directed to a stand mixer, wherein Lin is directed towards a blender or food

processor. The Brueckner Rule 132 Declaration submitted with the prior amendment explains the differences between a stand mixer, a blender and a food processor. The Examiner presents no evidence to contradict the Brueckner Declaration. Rather, the Examiner merely asserts an overly broad definition of "mixer", which is inconsistent with proper claim interpretation guidelines. As the Federal Circuit explained in the 2005 Phillips case, claim interpretation must be from the view of a person having ordinary skill in the art in light of the specification. It is improper to interpret the claim terminology, such as "stand mixer" in a vacuum or without any consideration of the specification or the meaning as applied by a person having ordinary skill in the art. Thus, the Declaration of Brueckner, who is one of the inventors and skilled in the art, cannot be ignored, absent clear and convincing contradicting evidence.

As further evidence that stand mixers, blenders, and food processors are different appliances, attached are two pages from the Sears webpage. The first page relates to small kitchen appliances, and clearly separates mixers and blenders into two different categories. Similarly, the second page shows that mixers and food processors are not lumped together, but are segregated as different small kitchen appliances.

Therefore, the Examiner's interpretation of "stand mixer" is overly broad and inaccurate. Therefore, the rejection of the claim 1 stand mixer based upon Lin must be withdrawn.

Independent claim 12 is directed towards a method of controlling operation of a stand mixer, and requires the step of "rotating an illuminator with the rotary dial to indicate a motor speed." As discussed above with respect to claim 1, there is no disclosure in Lin for rotating an illuminator with the rotary dial, as required by claim 12. Nor is Lin related to a method of controlling operation of a stand mixer, as further discussed above with respect to the differences

between a stand mixer and a blender or food processor. Therefore, claim 12 distinguishes over the cited references so as to be in proper form for allowance.

Claims 2-11 depend from claim 1 and claims 13-17 depend from claim 12, such that these depending claims are allowable for the reasons set forth with respect to their base claims.

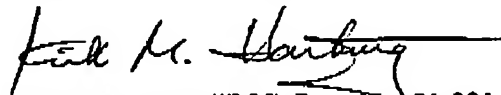
In view of the foregoing, Applicant respectfully requests that a Notice of Allowance be issued.

### Conclusion

This Amendment accompanies a Request for Continued Examination (RCE). Please charge Deposit Account No. 26-0084 the amount of \$790.00 per the attached Request for Continued Examination Transmittal. No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



KIRK M. HARTUNG, Reg. No. 31,021  
MCKEE, VOORHEES & SEASE, P.L.C.  
801 Grand Avenue, Suite 3200  
Des Moines, Iowa 50309-2721  
Phone No: (515) 288-3667  
Fax No: (515) 288-1338  
CUSTOMER NO: 27139

Attorneys of Record

- bja -

Enclosures: Sears web pages (2 sheets)